



December 11, 2018

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VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, District of Columbia 20554

RE: Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Docket No. 05-311

Dear Ms. Dortch,

The City of Corvallis, Oregon (“Corvallis” or the “City”) submits this Reply to NCTA’s November 14, 2018 comments filed in the above-referenced docket. NCTA makes reference to Corvallis in support of its position that non-cable services should not be subject to franchising and fee requirements. Corvallis is obligated to correct the misrepresentations, inaccuracies and generalizations presented in the NCTA Comments. It is the City’s hope that, by submitting these Reply comments, the Commission will have a better understanding of how franchising operates in Corvallis and other local jurisdictions.

NCTA has taken exception to the City’s administration of its own right of way (ROW”) by requiring Comcast to first secure proper authorization to install non-cable facilities in the ROW (which authority is not granted in Comcast’s franchise). Contrary to NCTA’s assertion, Corvallis is not requiring Comcast “to pay a fee of five percent of revenues for voice services, on top of the maximum franchise fee for cable service.” With the execution of an agreement for telecommunications and data services, any franchise fee that Comcast currently pays under the cable franchise for non-cable services, will instead be due under the new agreement. The requirement of a separate franchise does not create any requirement the cable franchise does not currently require of Comcast. However, it would grant Comcast the authorization for the installation of its non-cable facilities in the ROW. Comcast has already taken the liberty to install unpermitted and unauthorized non-cable equipment in the City’s ROW; the City is simply requiring Comcast to bring itself into compliance with the City’s requirements so that it can adequately manage its public ROW.

As explained in its previous submission to the Commission in this docket, Corvallis continues to address Comcast’s unauthorized placement of Wi-Fi equipment in the rights of way. All franchises with the City of Corvallis require franchisees to obtain a construction permit from the City prior to work within the ROW. Regardless of the kind service provided, Comcast’s placement of new

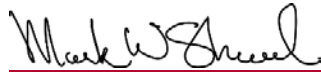
facilities in the ROW without construction permits is a violation of the terms of its franchise agreement.

In order to provide a competitively neutral environment for similar service providers using the City's ROW, Corvallis requires that service providers of like services have like permission to use the ROW. Additionally, accurate records of facilities installed and maintained the City's ROW, and their purpose, are important for the necessary administration of the use of the City's ROW.

To allow a cable service provider to provide non-cable services, without local control and beyond the scope of its franchise, would bestow special rights to a class of private companies. To treat Comcast otherwise would require Corvallis to ignore the terms of its negotiated franchises, City codes and Ordinances.

The City of Corvallis thank you for the opportunity to submit these Reply comments.

Sincerely,

A handwritten signature in black ink, reading "Mark W. Shepard", is written over a horizontal red line. To the left of the signature, there is a short vertical black line.

Mark Shepard
City Manager